

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

ANGELA DREWITT

CIVIL ACTION NO: _____

VERSUS

DISTRICT JUDGE _____

BROOKSHIRE GROCERY
COMPANY, *ET AL.*

MAGISTRATE JUDGE _____

JURY TRIAL DEMANDED

NOTICE OF REMOVAL

NOW INTO COURT COMES, Defendant, Brookshire Grocery Company (“Brookshire”), through undersigned counsel and pursuant to 28 U.S.C. §§ 1441 and 1446, who files this Notice of Removal of the captioned action now pending in the Tenth Judicial District Court for the Parish of Natchitoches, State of Louisiana, Docket No. 94014-B. In support of its Notice of Removal, Brookshire respectfully represents:

COMMENCEMENT AND NATURE OF ACTION

1.

On or about May 23, 2023, Plaintiff, Angela Drewitt, initiated a legal action in the Tenth Judicial District Court for the Parish of Natchitoches by filing a Petition for Damages styled “*Angela Drewitt vs. Brookshire Grocery Company, et, al.,*” bearing docket number 94014-B, which state court is within the jurisdiction of the Western District of Louisiana. Brookshire Grocery Company, Nationwide Building Services, Inc., and Argel

Building Services, Inc. were named as defendants. A copy of Plaintiff's Petition is attached hereto as Exhibit A and incorporated herein by reference.

2.

In the Petition, Plaintiff asserts claims based on an alleged slip and fall incident that occurred in Natchitoches Parish, Louisiana, on May 25, 2022. Plaintiff alleges that she was a patron at the Super 1 Foods located in Natchitoches, Louisiana, when she slipped and fell sustaining "traumatic and disabling injuries, as a result of her encountering water on the floor." Exhibit A, Petition for Damages, at ¶¶ 2-3.

3.

Plaintiff itemized her medical expenses in the Petition, which total \$17,587.40. Exhibit A, Petition for Damages, at ¶ 9. And on April 18, 2023, Brookshire's third-party claims administrator, Sedgwick Claims Management Service, Inc., received a pre-suit settlement demand in the amount of \$150,000.00 from Plaintiff's counsel. *See* Exhibit B, April 18, 2023 Settlement Offer.

4.

This Notice of Removal is being filed within one year of commencement of the action and within 30 days of receipt of Plaintiff's Petition, which was Brookshire's first notice of the suit. *See* Service of Process Notification (Exhibit A, p. 1). Accordingly, this Notice of Removal is timely.

PARTIES AND DIVERSITY OF CITIZENSHIP

5.

Per the Petition, Plaintiff, Angela Drewitt, is domiciled in Natchitoches, Louisiana. *See* Exhibit A, Petition for Damages. Accordingly, Plaintiff is a domiciliary of the State of Louisiana.

6.

Brookshire Grocery Company is incorporated in the State of Texas with its principal place of business located in Texas. Accordingly, Defendant Brookshire Grocery Company is a domiciliary of the State of Texas. Plaintiff incorrectly identified Brookshire Grocery Company's domicile as Louisiana within the Petition. Exhibit A, Petition for Damages, at ¶ 1.

7.

Nationwide Building Services, Inc. is incorporated in Texas with its principal place of business in Texas. *See* Nationwide Building Services' Consent to Removal and Confirmation of Foreign Citizenship, attached hereto as Exhibit C. Accordingly, Defendant Nationwide Building Services, Inc., is a domiciliary of the State of Texas.

8.

Argel Building Services, Inc. is incorporated in Texas with its principal place of business in Texas. *See* Argel Building Services' Consent to Removal and Confirmation of

Foreign Citizenship, attached hereto as Exhibit D. Accordingly, Defendant Argel Building Services, Inc., is a domiciliary of the State of Texas.

9.

Complete diversity exists between Plaintiff, Angela Drewitt, and the Defendants, Brookshire Grocery Company, Nationwide Building Services, Inc., and Argel Building Services, Inc., as required for original jurisdiction to vest in the United States District Court for the Western District of Louisiana, pursuant to 28 U.S.C. § 1332.

AMOUNT IN CONTROVERSY

10.

Removal of an action from state to federal court on the basis of diversity is proper if the district court finds, by a preponderance of the evidence, that the amount in controversy exceeds \$75,000.

11.

In a letter dated April 28, 2023, Plaintiff's counsel sent a pre-suit settlement demand of \$150,000 to Brookshire's third-party claims administrator, Sedgwick Claims Management Service, Inc., indicating that Plaintiff's damages are above the \$75,000 threshold. *See* Exhibit B, April 18, 2023 Settlement Offer.

REMOVAL PROCEDURES

12.

Because complete diversity exists between Plaintiff and Defendants and the amount in controversy exceeds the jurisdictional amount required by 28 U.S.C. § 1332, the United States District Court for the Western District of Louisiana is vested with original jurisdiction over this action pursuant to 28 U.S.C. § 1441, *et seq.*

13.

Pursuant to 28 U.S.C. § 1441 and Local Rule 77.3, removal is proper to the United States District Court for the Western District of Louisiana, Alexandria Division, as the district court of the United States for the district and division embracing the place where the action is pending; the Tenth Judicial District Court for the Parish of Natchitoches, State of Louisiana.

14.

Pursuant to 28 U.S.C. § 1446(b)(2)(A), all Defendants consent to the removal of this action, and the consents by Nationwide Building Services, Inc. and Argel Building Services, Inc. to remove this action are attached and incorporated herein by reference as Exhibit C and Exhibit D.

15.

This Notice of Removal is being filed within one year of commencement of the action and within 30 days of receipt of Plaintiff's Petition, which was Brookshire's first notice of the suit. *See* 28 U.S.C. §§ 1446(b)(3), (c)(1), and (c)(3)(A).

16.

A copy of this Notice of Removal is being served upon all counsel of record, and Brookshire will file a copy of this Notice with the Clerk of Court for the Tenth Judicial District Court for the Parish of Natchitoches, State of Louisiana. A copy of the State Court Written Notice of Removal is attached hereto and made a part hereof as Exhibit E.

17.

A copy of the entire state record is being requested and will be filed with this Court pursuant to 28 U.S.C. § 1447(b).

18.

Brookshire is entitled to and requests a trial by jury on all issues.

WHEREFORE, Defendant, Brookshire Grocery Company, prays that this Notice be deemed good and sufficient and that this action be removed from the Tenth District Court for the Parish of Natchitoches to the United States District Court for the Western Division of Louisiana, Alexandria Division.

Dated this 23rd day of **June, 2023**.

Respectfully submitted,

FAIRCLOTH MELTON SOBEL & BASH, LLC

BY: /s/ Barbara Bell Melton

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**ATTORNEYS FOR DEFENDANT,
BROOKSHIRE GROCERY COMPANY**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Notice of Removal and exhibits have been served upon all counsel of record and the Clerk of the Tenth Judicial District Court for the Parish of Natchitoches *via* US Mail and/or email:

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Honorable David Stamey
Clerk of Court
TENTH JUDICIAL DISTRICT COURT
P.O. Box 476
Natchitoches, LA 71458-0476

Alexandria, Louisiana, this 23rd day of **June, 2023**.

/s/ Barbara Bell Melton
OF COUNSEL